

**Notice of Allowability**

Application No.

09/875,264

Examiner

Michael C. Wilson

Applicant(s)

NAIR ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the arguments and TDs filed 1-13-05 in part and the amendment and arguments filed 4-14-05.
2. ☒ The allowed claim(s) is/are 39-50.
3. ☒ The drawings filed on 07 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4-14-05 and 6-7-01
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.



MICHAEL WILSON  
PRIMARY EXAMINER

### **ALLOWANCE**

Claims 1-38 have been cancelled. Claim 39 has been amended. Claims 40- 50 have been added.

Applicant's arguments filed 1-13-05 and 4-14-05 have been fully considered and are persuasive.

The amendment filed 1-13-05 was not entered.

The amendment filed 1-13-05 has been entered.

A corrected initialed copy of the 1449 filed 6-7-01 is provided herewith. The copy signed 8-9-04 did not address the US Patents or WO documents listed.

The IDS filed 4-14-05 is a duplicate of the IDS filed 1-13-05 and has been marked as such and provided herewith. The IDS filed 1-13-05 has already been considered.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

#### ***Claim Rejections - 35 USC 112***

The rejection of claim 19 under 35 U.S.C. 112, first paragraph, has been withdrawn because the claim has been canceled.

The enablement rejection regarding "tumor specific" has been withdrawn in view of applicants arguments, i.e. the specification and the art at the time of filing taught subtractive hybridization was used to obtain RNA specific to particular types of cells and the art at the time of filing referred to "tumor-specific" antigens (see, e.g., Tokuraku, Kurpad, and Elson in the IDS filed 1-13-05).

The enablement rejection regarding using APC that do not express an antigen encoded by the RNA in claim 19 has been withdrawn because the claim was canceled and because the new claims require "producing APC that functionally present said antigen on the surface thereof."

The enablement rejection regarding contacting any T lymphocyte as broadly claimed with RNA-loaded APC to obtain CTL in claim 19 has been withdrawn because the claim was canceled and because claims 39 and 45 require contacting the APCs with lymphocytes comprising CTL or with CD8+ T cells.

### ***Double Patenting***

The rejection of claims 19 and 39 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,670,186 in view of the disclosure of '186 has been withdrawn because claim 19 was canceled and because applicants filed a terminal disclaimer over 6,670,186 on 1-13-05 (duplicate provided on 4-14-05).

The rejection of claims 19 and 39 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,387,701 in view of the disclosure of '701 has been withdrawn because claim 19 was canceled and because applicants filed a terminal disclaimer over 6,387,701 on 1-13-05.

The rejection of claims 19 and 39 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,306,388 in view of the disclosure of '388 has been withdrawn because

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claim 19 was canceled and because applicants filed a terminal disclaimer over 6,306,388 on 1-13-05.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Wilson who can normally be reached at the office on Monday, Tuesday, Thursday and Friday from 9:30 am to 6:00 pm at 571-272-0738.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached on 571-272-0735.

The official fax number for this Group is (571) 273-8300.

Michael C. Wilson